

REMARKS

In the Office Action, the Examiner rejected claims 1-9, 11-15, and 70-79. By this paper, Applicants hereby amend claim 1 and cancel claim 2 in order to incorporate the feature previously presented in claim 2 into claim 1. This amendment does not add any new matter, nor does it necessitate a new search. In view of the foregoing amendment and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-4, 7-9, 11, 14, 71, and 74 under 35 U.S.C. § 102(b) as being anticipated by Goldberg et al. (U.S. Patent No. 4,603,489, hereinafter "Goldberg"). Applicants respectfully traverse this rejection.

Legal Precedent and Guidelines

Anticipation under 35 U.S.C. § 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention "*in as complete detail as contained in the ... claim*" to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Features of Independent Claim 1 Omitted from Goldberg Reference

Turning to the claims, Goldberg does not recite all of the features disclosed in currently amended independent claim 1. Claim 1 recites, *inter alia*, “a laundry enclosure adapted to clean laundry in a cleaning fluid” (emphasis added). The Goldberg reference does not teach or suggest a laundry enclosure adapted to clean laundry as recited by claim 1. Rather, the Goldberg reference teaches an apparatus solely used for drying. Applicants emphasize that an apparatus solely used for drying is *not* adapted to clean laundry in a cleaning fluid. Indeed, the Goldberg reference makes no reference to cleaning fluid or a cleaning process in general. In view of this deficiency, among others, the Goldberg reference cannot anticipate independent claim 1 and its dependent claims.

Features of Dependent Claims 3, 4, 71, and 74 Omitted from Goldberg Reference

While all of the dependent claims are patentable at least by virtue of their direct or indirect dependency on independent claim 1, Goldberg omits features specifically provided in several of these claims.

Goldberg does not recite all of the features disclosed in the present dependent claims 3, 4, and 74. Claim 3 recites “the drying mechanism is adapted to recapture a desired portion of the cleaning fluid.” Claim 4 recites “the desired portion comprises a cleaning solvent.” Claim 74 recites “a fluid recovery system configured to recapture a cleaning solvent.” As previously discussed, the Goldberg reference teaches an apparatus used solely for drying, and an apparatus solely used for drying is *not* configured to clean laundry in a cleaning solvent. As a result, the Goldberg reference fails to teach or suggest any recapture of cleaning fluid, much less a recapture of cleaning solvent. In view of this deficiency, among others, the Goldberg reference cannot anticipate dependent claims 3, 4, and 74.

Furthermore, the Goldberg reference does not recite all of the features disclosed in the present dependent claim 71. Claim 71 recites “an airflow control configured to change the drying mechanism between a closed airflow system and an open airflow system relative to the atmosphere” (emphasis added). The Goldberg reference does *not* disclose an airflow control (e.g., a system of valves) that is configured to change between a closed airflow system and an open airflow system. The mere existence of two distinct embodiments, e.g., open and closed airflow, does not imply a combined embodiment capable of switching between the two. In view of this deficiency, among others, the Goldberg reference cannot anticipate dependent claim 71.

For at least these reasons, among others, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 12-13, 15, 70, and 75-79 under 35 U.S.C. § 103(a) as being unpatentable over Goldberg. In addition, the Examiner rejected claims 5-6 and 72-73 under 35 U.S.C. § 103(a) as being unpatentable over Goldberg in view of Berndt et al. (U.S. Patent No. 6,059,845, hereinafter “Berndt”). Applicants respectfully traverse these rejections.

Legal Precedent and Guidelines

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). To establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed features, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985).

In addressing obviousness determinations under 35 U.S.C. § 103, the Supreme Court in *KSR International Co. v. Teleflex Inc.*, No. 04-1350 (April 30, 2007), reaffirmed many of its precedents relating to obviousness including its holding in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). In *KSR*, the Court also reaffirmed that “a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *Id.* at 14. In this regard, the *KSR* court stated that “it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does ... because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.” *Id.* at 14-15. In *KSR*, the court noted that the demonstration of a teaching, suggestion, or motivation to combine provides a “helpful insight” in determining whether claimed subject matter is obvious. *KSR, slip op.* at 14.

Furthermore, the *KSR* court did not diminish the requirement for objective evidence of obviousness. *Id.* at 14 (“To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”). As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.”); see also *In re Lee*, 61 U.S.P.Q.2d 1430, 1436 (Fed. Cir. 2002) (holding that the factual inquiry whether to combine references must be thorough and searching, and that it must be based on *objective evidence of record*).

When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself; that is to say, something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988). One cannot use hindsight reconstruction to select among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). The Federal Circuit has warned that the Examiner must not “fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.” *In re Dembiczak*, F.3d 994, 999, 50 U.S.P.Q.2d 52 (Fed. Cir. 1999) (quoting *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)).

It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 U.S.P.Q. 769, 779 (Fed. Cir. 1983); M.P.E.P. § 2145. Moreover, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959); see M.P.E.P. § 2143.01(VI). If the proposed modification or combination would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); see M.P.E.P. § 2143.01(V).

Dependent Claims 12-13, 15, 70, and 75-79

On a preliminary note, the Applicants note that claims 12-13, 15, 70, and 75-79 depend directly or indirectly on independent claim 1. The Goldberg reference is deficient for at least the same reasons as discussed above with reference to independent claim 1.

As discussed above, the Goldberg reference is clearly limited to a drying machine, and there is absolutely no teaching or suggestion regarding the use of a cleaning fluid. Moreover, one of ordinary skill in the art would not find it obvious to modify the drying machine of the Goldberg reference to further clean the laundry with a cleaning fluid. As a result, the Applicants respectfully request withdrawal of the foregoing rejection of claims 12-13, 15, 70, and 75-79.

Applicants further stress the insufficiency of the Examiner's obviousness argument with respect to claim 70. Contrary to the Examiner's assertion, the supplemental heating device recited in claim 70 is not necessarily duplicative of the heating component of the claimed vapor compression cycle system. Thus, adding a supplemental heating device to the system disclosed in Goldberg would *not* necessarily be an act of duplication and thus would *not* be obvious to one of ordinary skill on the basis of duplication.

Dependent Claims 5-6 and 72-73

Firstly, the Examiner did not identify a reason for combining the Goldberg and Berndt for the purposes of a Section 103(a) rejection, nor did the Examiner provide objective evidence of obviousness. As previously discussed, the Examiner cannot make mere conclusory statements in support of an assertion of obviousness but rather must articulate a reasonable argument to support a conclusion of obviousness. The Examiner simply combined features from Goldberg and Berndt and made a conclusory statement indicating that it would be obvious to one of ordinary skill to have a siloxane tank as taught in Berndt attached to the drying apparatus of Goldberg. The Examiner did not identify a reason for combining Goldberg and Berndt, nor did he provide evidence demonstrating why claims 5-6 and 72-73 were rendered obvious by the combination.

Moreover, Goldberg and Berndt teach contrastingly different intended purposes and principles of operation, which would change if the cited references were hypothetically combined as suggested by the Examiner. As discussed above, a proposed modification or combination of references is entirely improper and insufficient to support a *prima facie* case of obviousness, where the proposed modification or combination would change the principle of operation of the cited reference or render the cited reference unsatisfactory for its intended purpose. The Goldberg reference teaches a principle of operation pertaining to a drying apparatus. The sole objective of the Goldberg arrangement is to dry objects. In contrast, Brandt teaches a principle of operation pertaining to an apparatus for dry cleaning objects. The objective of the Brandt arrangement is to dry clean objects with a siloxane solvent. Contrary to the assertion made by the Examiner, it would not be obvious to one of ordinary skill in the art at the time of the invention to add a tank containing siloxane or another cleaning solvent to the drying machine of the Goldberg reference. The sole aim of the Goldberg arrangement is to dry objects, and a cleaning solvent is useful for purposes of dry cleaning, *not* for purposes of drying. In fact, modifying the invention to include features that are not useful for drying objects could needlessly alter the operation of the Goldberg arrangement to such an extent that the invention would no longer operate as intended. Accordingly, in view of these contrasting principles of operation, the Examiner's proposed combination of Goldberg and Brandt is improper.

For at least these reasons, among others, Applicants respectfully request withdrawal of the foregoing combination and the corresponding rejections under 35 U.S.C. § 103.

Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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/Tait R. Swanson/
Tait R. Swanson
Reg. No. 48,226
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545